

MONTANA LEGISLATIVE HISTORY

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Chapter 399 19 95

Bill H _____ S 418

Original bill & history Xc

H. Committee on TAXATION

Hearing Date(s) 3/30 Xc

EXEC ACTION _____c

_____c

_____c

Date Out _____c

S. Committee on TAXATION

Hearing Date(s) 3/15 Xc

EXEC ACTION 3/17 Xc

_____c

_____c

Did this bill originate in an interim committee? _____Yes _____No

Committee _____

Report _____

SENATE BILL NO. 418

INTRODUCED BY

BY REQUEST OF THE SENATE TAXATION COMMITTEE

HARP

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXABILITY OF TAX BENEFIT ITEMS FOR MONTANA INDIVIDUAL INCOME TAX PURPOSES; INCORPORATING THE FEDERAL TAX BENEFIT LAW RELATED TO THE RECOVERY OF AMOUNTS DEDUCTED IN A PRIOR TAX YEAR; DISALLOWING DEDUCTIONS FOR EXPENSES ASSOCIATED WITH THE PRODUCTION OF EXEMPT OR EXCLUDABLE INCOME; AMENDING SECTIONS 15-30-111 AND 15-30-123, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross income ~~shall be~~ is the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition ~~shall include~~ includes the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision ~~thereof~~ of another state;

(b) refunds received of federal income tax, to the extent the deduction of ~~such~~ the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code of 1954, that has been reduced by any federal taxes paid by the subchapter S. corporation on the income; and

(d) depreciation or amortization taken on a title plant as defined in 33-25-105(15); and

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted.

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or amended, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision ~~thereof~~ of the state;

(b) interest income earned by a taxpayer age 65 or older in a ~~taxable~~ tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income received as defined in 15-30-101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law; and

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange" and

(j) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(a) shall include in his ~~the shareholder's~~ adjusted gross income the earnings and profits of the DISC in the same manner as provided by ~~federal law (section 995, of the Internal Revenue Code)~~ for all periods for which the

DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced ~~his~~ the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who must include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the ~~taxable~~ tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion and before application of the two-earner married couple deduction exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

Section 2. Section 15-30-123, MCA, is amended to read:

"15-30-123. Nondeductible items in computing net income. In computing net income, ~~no~~ deductions ~~shall in any case be~~ are not allowed ~~in respect of~~ for:

(1) personal, living, or family expenses;

1 (2) any amount paid out for new buildings or for permanent improvements or betterments made
2 to increase the value of any property or estate;

3 (3) any amount expended in restoring property or in making good the exhaustion thereof of the
4 property for which an allowance is or has been made; ~~or~~

5 (4) premiums paid on any life insurance policy covering the life of any officer or employee or of any
6 person financially interested in any trade or business carried on by the taxpayer when the taxpayer is
7 directly or indirectly a beneficiary under ~~such~~ the policy; or

8 (5) expenses that are associated with the production of exempt or excludable income."

9
10 NEW SECTION. **Section 3. Effective date -- retroactive applicability.** [This act] is effective on
11 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after
12 December 31, 1994.

13 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0418, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

act revising the taxability of tax benefit items for Montana individual income tax purposes; incorporating the federal tax benefit law related to the recovery of amounts deducted in a prior year; disallowing deductions for expenses associated with the production of exempt or excludable income; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

This bill applies to tax years beginning with tax year 1995.

FISCAL IMPACT:

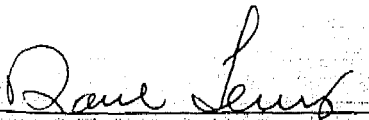
Expenditures:

This bill has no impact on Department of Revenue administrative expenses.

Revenues:

The Department of Revenue estimates that the provisions of this bill will increase tax year liabilities by \$1,700,000.

	FY96 <u>Difference</u>	FY97 <u>Difference</u>
Individual Income Tax	\$1,700,000	\$1,700,000

 3-6-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 3-7-95
DELWYN GAGE, PRIMARY SPONSOR DATE
Fiscal Note for SB0418, as introduced

SB-418

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on March 17, 1995, at
8:00 A.M.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John G. Harp (R)
Sen. Dorothy Eck (D)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: SEN. FRED VAN VALKENBURG

Members Absent: None

Staff Present: Jeff Martin, Legislative Council
Renée Podell, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 420, HB 524, SB 421
Executive Action: SB 414, SB 418

HEARING ON SB 420

Opening Statement by Sponsor:

SEN. J. D. LYNCH, SD 19, Butte, announced SB 420 is a job incentive bill for employers. He stated a tax credit will be given to anyone who creates new jobs. He said the bill gives 10% of the income up to one full year as a tax credit on the new job created. SEN. LYNCH explained the DOR will present some technical amendments. He stated the bill should be revenue neutral and should mean an increase in overall taxes. He submitted a handout giving a summary of the bill. EXHIBIT 1.

March 17, 1995

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Motion/Vote: SEN. ECK MOVED THE AMENDMENTS. THE MOTION CARRIED UNANIMOUSLY. SEN. FOSTER MOVED SB 414 DO PASS AS AMENDED.

Vote: MOTION CARRIED 6 - 3 WITH SEN. DEVLIN, SEN. HARP, AND SEN. GAGE VOTING IN OPPOSITION.

EXECUTIVE ACTION ON SB 418

Motion: SEN. GAGE MOVED AMENDMENTS TO SB 418 (sb041801.ajm)

Discussion: CHAIRMAN DEVLIN asked Mr. Robinson to verify if \$1.7 million with this amendment is gone. Mr. Robinson stated the increase in the revenue would be eliminated as a result of this amendment.

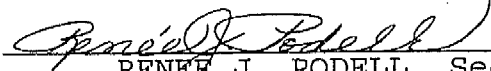
Motion/Vote: MOTION CARRIED 7 - 2 WITH SEN. ECK AND SEN. VAN VALKENBURG VOTING IN OPPOSITION TO THE BILL. SEN. GAGE MOVED DO PASS AS AMENDED ON SB 418.

Vote: MOTION CARRIED 7 - 2 WITH SEN. DEVLIN AND SEN. STANG VOTING IN OPPOSITION TO SB 418.

ADJOURNMENT

Adjournment: 11:03 a.m.


GERRY DEVLIN, Chairman


RENEE J. PODELL, Secretary

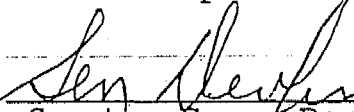
GD/rp

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 17, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB 418 (first reading copy -- white), respectfully report that SB 418 be amended as follows and as so amended do pass..

Signed: 
Senator Gerry Devlin, Chair

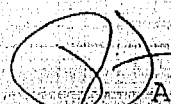
That such amendments read:

1. Page 4, line 8. -

Following: "income."

Insert: "This subsection (5) does not apply to the deductibility of federal income taxes paid on income that is excludable or exempt for Montana income tax purposes."

-END-

 Amd. Coord.

Sec. of Senate

621-227SC-SRF

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN CHASE HIBBARD, on March 30, 1995, at
8:00 a.m.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused:

Rep. Rick Jore (R)

Members Absent: None.

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 358
SB 336
SB 412
SB 418

Executive Action: SB 418 - Concurred In
SB 412 - Discussion Only
SB 407 - Concurred In
SB 397 - Concurred In
SB 161 - Discussion Only

Questions From Committee Members and Responses:

REP. STORY asked for an explanation of the account the schools and counties would be putting their money in. SEN. GROSFIELD said the money that would result from the acceleration of payments would be deposited in an account which is outlined in Section 19 of the bill. The section also describes exactly how the money would be distributed.

REP. HANSON asked if there would be "winners and losers" under the proposal. Mr. Hoffman said that the way the bill is drafted, there would not be any losers and the counties would be the winners because they would get the accelerated payments. The companies would be winners because it does away with the payment delay. It also eases the administrative burden for the DOR and the companies.

REP. ARNOTT asked if the money would be sent back to the counties in the proportion it was collected. Mr. Hoffman said the money that goes back to the counties and schools would be distributed under a statutory formula that would not be changed under this bill. The formula was adopted into law in 1989 as part of the school equalization package.

In response to questions from REP. REAM, Mr. Hoffman again explained how the rates had been determined and how assumptions were arrived at. He said there were coordination instructions in the other bills being heard before the Committee which tell the Council and the Legislature how they will be brought into the table. If the other bills pass, they won't affect this bill in any way.

Closing by Sponsor:

SEN. GROSFIELD reminded the Committee again that the bill was complex and dealt with a lot of areas but it would simplify a lot of areas. It is a worthwhile bill and does not do anything to change what was done in the special session. He asked the Committee to pass the bill.

{Tape: 4; Side: A.}

HEARING ON SB 418Opening Statement by Sponsor:

SEN. DEL GAGE, Senate District 43, Cut Bank, advised that SB 418 was a bill that originated in the Senate Tax Committee. It was brought to the Committee's attention that an individual had a problem with the Department of Revenue because the federal code had a rule that says that if a benefit is not received from a particular deduction that results in a refund, the refund is not taxable. The bill would revise the taxability of tax benefit items for Montana individual income tax purposes, incorporating

the federal tax benefit law relating to the recovery of amounts deducted in a prior tax year, and disallow deductions for expenses associated with the production of exempt or excludable income.

Proponents' Testimony:

Jeff Miller, DOR, spoke in support of the bill. It will add integrity and understandability to the tax system.

Joe Shevlin, Montana Society of CPA's, encouraged the Committee to support this bill because it is fair and takes care of some inequities.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. REAM asked why the fiscal note would not apply. Mr. Miller replied that it was because of the amendment that appears on page 4 of the bill. REP. REAM asked if this would have any impact on the individual taxpayer's federal income tax return. Mr. Miller said it would not. He said the situation was brought up by a Montana citizen who overpaid state withholding in another state and California gave them a refund. Because they reduced their federal taxable income by deducting all the withheld state income tax in Montana, it was required to be part of their gross income in the state, yet it had nothing to do with Montana income in the previous year. This bill was the logical result.

REP. ELLIOTT asked if it would have anything to do with depreciable property. Mr. Miller said he could not see that it would.

Closing by Sponsor:

SEN. GAGE asked for the Committee's concurrence in the bill because it clarifies some things that people have wondered about for a long time.

EXECUTIVE ACTION ON SB 418

Motion:

REP. HARPER MOVED THAT SB 418 BE CONCURRED IN.

Discussion:

There was no discussion on the motion.

Vote:

On a voice vote, the motion passed unanimously.

EXECUTIVE ACTION ON SB 412Motion:

REP. ROSE MOVED THAT SB 412 BE CONCURRED IN.

Discussion:

REP. REAM said another bill would be coming before the Committee and he wondered how that bill would fit with SB 412.

Mr. Heiman advised that all the other bills have coordinating instructions to SB 412 and make it easy to understand the relationship. This bill will stand whether the other bills are passed or not.

REP. ELLIOTT said it would affect the fiscal note. Mr. Heiman explained that the fiscal impact is determined independently and when the bill is codified by the Council, it will be coordinated with this bill.

REP. ELLIOTT requested that action on this bill be postponed until Sen. Jergeson's bill is heard.

REP. REAM asked Judy Paynter of the DOR to prepare a table including columns for the stripper bill and the Jergeson bill which would show the fiscal impact on one chart. Ms. Paynter said she could provide that information.

REP. ROSE WITHDREW HIS MOTION.

CHAIRMAN HIBBARD announced that further action would be delayed until SB 313 had been heard before the Committee.

EXECUTIVE ACTION ON SB 407Motion:

REP. ARNOTT MOVED THAT SB 407 BE CONCURRED IN.

Discussion:

There was no discussion on the bill.

Motion/Vote:

On a voice vote, the motion passed unanimously.



HOUSE STANDING COMMITTEE REPORT

March 30, 1995

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Mr. Speaker: We, the committee on Taxation report that Senate Bill 418 (third reading copy -- blue) be concurred in.

Signed: _____

A handwritten signature in cursive script, appearing to read "Chase Hibbard", is written over a horizontal line.

Chase Hibbard, Chair

Carried by: Rep. Arnott

Committee Vote:

Yes 19, No 0

731305SC.Hbk

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Devotion COMMITTEE Sen. Sage BILL NO. SB 418
DATE 3/30/95 SPONSOR(S) Sen. Sage

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Joseph F. Shevlin	MONTANA SOCIETY OF CPAs	418		X
Jeff Miller	DOR	SB418		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.